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FEE TRANSMITTAL For FY 2006

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$)

0

Complete if Known	
Application Number	10/719,063
Filing Date	11/24/03
First Named Inventor	David W. NELSON
Examiner Name	Rowan
Art Unit	3643
Attorney Docket No.	36729-198472

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 22-0261 Deposit Account Name: Venable LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, except for the filing fee

Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 Credit any overpayments

FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fees Paid (\$)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Small Entity Fee (\$)	Fee (\$)
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50 25

Each independent claim over 3 (including Reissues)

200 100

Multiple dependent claims

360 180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP	x	=				

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP	x	=	

HP = highest number of total claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/50	(round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

SUBMITTED BY		Registration No. (Attorney/Agent)	Telephone
Signature	<u>Andrew C. Aitken</u>	36,729	202 344 4000
Name (Print/Type)	Andrew C. Aitken	Date	11/13/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete the form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

David W. NELSON

Appl. No. 10/719,063

Confirmation No. 9139

Filed: November 24, 2003

For: Capturing Device for Insects

Art Unit: 3643

Examiner: Rowan

Atty. Docket No.: 36729-198472

Customer No.:

26694

REPLY TO EXAMINER'S ANSWER

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer, the Applicant respectfully submits this reply.

Central to disagreement between the Examiner and the Applicant is whether the prior art teaches or suggests providing a device for capturing pests that includes "a compressible and pliable material" that will collapse and form a concave depression that conforms to the shape of the insect.

It is the Examiner's first position that if one "wraps up" an insect in a sheet of paper (such as in a post-it note or the glue trap of Hughes) that this limitation has been met. The Applicant respectfully disagrees with the Examiner's position. As used in the patent and as seen in the drawings, the substrate is made in such a manner to allow a pest to displace the substrate when it is restrained so that a portion of the pest is below the surface of the regions of the

substrate directly adjacent to the pest. Wrapping up an insect in a sheet of paper does not inherently meet this limitation. There is no teaching or suggestion that wrapping up an insect in a piece of paper coated with adhesive would result in the insect being “embedded” within the paper substrate. Wrapping it with paper is not embedding it within the paper.

The Examiner’s second argument is that because “all materials are somewhat compressible” it would seem that when pressure or force from the rear surface is applied, it will compress the substrate to some extent. First, the Applicant disagrees with the examiner’s premise and academic argument that all material is compressible. A sheet of paper -- like a post-it note or the substrate of Hughes -- cannot be appreciably compressed. Second, even assuming that paper can be theoretically compressed, there is no teaching, disclosure or suggestion that it can be compressed in such a manner to form a concave depression to conform to the shape of the insect and therefore “partially embed” said insect within the substrate as claimed.

According to common sense, when you use a piece of paper, such as a newspaper to swat a fly, you don’t embed the insect within the paper -- rather, you squash the fly. In the alternative the fly may be crushed, killed and fall to the floor. The claimed invention works materially different than the devices relied upon by the Examiner because it teaches and claims having the substrate collapse around the insect to embed the insect.

In connection with the Examiner’s comments regarding Sherman, the Examiner apparently presently only applies the reference to teach using a discontinuous adhesive. It is the Examiner’s position that one would use a discontinuous adhesive to save money in the manufacturing. In response to the Examiner, the Applicant responds as follows:

First, there is no suggestion in Sherman that the adhesive is discontinuous to save on

costs. Rather, on information and belief, the wells were created in Sherman to help with the ability to mount the device in a vertical position and the wells (which result in the discontinuous distribution of adhesive) impede the flow of the adhesive.

Second, the Applicant disagrees with the Examiner's premise that the use of a discontinuous substrate would necessarily save money. The costs of the adhesive may be small in comparison with the costs of the manufacture of the trap and the cost of applying the adhesive in a discontinuous manner may significantly eclipse any costs that could be saved by reducing the amount of adhesive applied. In other words, the discontinuous distribution of adhesive on a device may be more expensive.

Conclusion

For the foregoing reasons and the reasons fully set forth in the main brief, it is respectfully submitted that each of the pending claims are patentable over the cited references. Accordingly, the Examiner's rejection of these claims should be reversed.

Respectfully submitted,



Date: Nov. 13, 2006

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